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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,959	12/12/2001	Elke Kraft	3827.088	3236

7590

04/05/2006

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EXAMINER

NGUYEN, CHI Q

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/009,959

Applicant(s)

KRAFT ET AL.

Examiner

Chi Q Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27-32 is/are allowed.
- 6) ☒ Claim(s) 14, 18, 21, 23-24, 26, 33-34 is/are rejected.
- 7) ☒ Claim(s) 15-17, 19, 20, 22 and 25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This Office action is in response to the applicant's amendment filed on 1/23/2006.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/23/2006 has been entered.

Specification

The disclosure is objected to because of the following informalities: In the specification amended on 5/9/2005, page 3, line 6, page 4, paragraph 0007, line 7, the unit for thickness should read as mm.

Appropriate correction is required.

Claim Objections

Claim 33 is objected to because of the following informalities: the amended text "The" should be underline for the claimed status identifier "currently amended".

Appropriate correction is required.

Claim 34 is objected because the subject matter is already cited in its independent claim 14 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14, 18, 21, 23, 24, 26, and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Bers (US 5,564,251) in view of Whitacre (US 5,255,482) and further in view of Schultheis et al. (US 5,255,482).

In regard claims 14, 18, and 34, Van Bers teaches a wood floor comprising a concrete sub-floor 1 (col. 1, lines 34-35) continuously covered with a layer 2 of an elastic and/or resilient material provided with an adhesive layer (col. 1, lines 42-51), covering elements 5, 6, of wood material (col. 2, lines 36-37).

Van Bers does not teach specifically an adhesive material is a cured adhesive, is a reaction adhesive, modified silicone polymers, and is applied with a layer thickness of 0.5-5mm has a shear strength of less than 1.2N/mm². Whitacre teaches tile flooring structure having an adhesive layer 118 is elastic adhesive, cure upon air drying thus it is a reaction type adhesive (see col. 7, lines 20-25) and Schultheis teaches process for forming a permanent elastic (polymer), silicone adhesive comprising a layer of an adhesive 4 with a thickness 1-2mm (col. 5, lines 11-13) and adhesive strength of more 1N/mm² (col. 2, lines 37-38) that could be in a range of 1.05N/mm², which is less than 1.2N/mm². At the time of the invention, it would have been obvious to one having an ordinary skill in the art to combine Van Bers with Whitacre and Schulteis for applying a

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cure, reaction adhesive layer with a thickness between 1-2mm and strength less than 1.2N/mm², respectively. The motivation for doing so would have been to maximize the expectable result and minimize the adhesive material.

In regard to method claims 21, 23, 24, 26, and 33, Van Bers, Whitacre, and Schultheis teach the structural elements for the floor as stated. However, Van Bers, Whitacre, and Schultheis do not teach expressly method steps for adhering floor covering elements, examiner considers this to be the obvious method of setting up device because in adhering flooring covering elements, one must obviously select a sub-floor area to be covered, and select a desirable adhesive material, which having above characteristic criteria then apply adhesive material on top of the sub-floor with a desirable thickness, and cover wooden flooring materials along the adhesive material.

Allowable Subject Matter

Claims 15, 16, 17, 19, 20, 22, and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 27-32 are allowable over the prior art.

Response to Arguments

Applicant's arguments with respect to claims 14-34 have been considered but are moot in view of the new ground(s) of rejection.

Response to Arguments

Applicant's arguments with respect to claims 14-26, and 33-34 have been considered but are moot in view of the new ground(s) of rejection. Further, in regard the

applicant's argument filed on 1/23/2006 that the prior art Van Bers teaches the glue has a maximum shear strength of 6.9MPa and a minimum shear strength of 1.4MPa. Thus, glue does not meet the criteria required by the present set of claims. The examiner does not agree with the applicant's argument because nowhere in the Van Bers' disclosure taught that limitation as argued by the applicant.

Conclusion

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847, Mon-Thu (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (571) 272-6842. The examiner's right fax number is (571) 273-6847.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairdirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

3/31/2006


CQN


Carl D. Friedman
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